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EXAMINER

MAHMOUDI, HASSAN

ART UNIT PAPER NUMBER

2165

DATE MAILED: 10/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/809,498	<b>Applicant(s)</b> MEIFU ET AL.	
	<b>Examiner</b> Tony Mahmoudi	<b>Art Unit</b> 2165	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 June 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9, 11, 15-26 and 29-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-9, 11, 16-18, 31 and 32 is/are allowed.
- 6) ☒ Claim(s) 15, 19-26, 29 and 30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 March 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>4/13/2006</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's Request for Continued Examination (RCE) submission and its accompanying Amendment filed on 14-June-2006 have been entered.

### ***Remarks***

2. In view of the Amendment filed on 14-June-2006, claims 27-28 are cancelled and claims 1-3, 5, 11, 16-17, 19-20, and 30-32 are amended per applicant's request. Therefore, claims 1-9, 11, 15-26, and 29-32 are presently pending in the application, of which, claims 1-3, 5, 11, 15-17, 19-20, and 30 are presented in independent form.
3. Upon further review of the claims and the specification of the instant Application, the previous indication of allowability of independent claim 15 is hereby withdrawn by the Examiner and new grounds of rejection is provided for this claim in this Office Action. The Examiner regrets any inconvenience caused by this decision.

***Drawings***

4. Figures 1 and 44 of the drawings is objected to because of the following informalities:

The circle drawn inside the **Service Center 19** indicative of a network in figure 1, needs to be labeled.

The empty rectangles depicted in figure 44 need to be labeled.

5. The drawings are objected to under 37 CFR 1.83(a) because:

They fail to show elements as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing (MPEP § 608.02(d).)

For example, the specification, starting at page 82, line 13 through page 83, line 4, discusses figures 44(a) through 44(c) as follows:

Referring to FIGS. 44(a) to 44(c) and 45, a detailed description will be given hereinbelow of a service method based on the above-described configuration according to the third embodiment of the present invention.

FIGS. 44(a) to 44(c) are illustrations useful for explaining a posture detection of the portable terminal 31 according to the third embodiment of the present invention, with each illustration showing a state where a user is moving between buildings (indicated by rectangles).

In FIG. 44(a), the absolute position (indicated by a black circle) of the portable terminal 31 is detected by the GPS module 11.

**In FIG. 44(b), the front direction (indicated by an arrow) of the portable terminal 31 is detected by the earth magnetism sensor 11b and the hand-in-use discriminating sensor 31b.**

**In FIG. 44(c), the inclination angle (see an arrow indicating a direction to a building) of the portable terminal 31 is detected by the inclination sensor 11a.**

However, the drawings of the instant application include only one figure for the above, labeled as FIG. 44. There are no figures 44(a), 44(b), or 44(c) included in the drawings as referenced in the specification. None of the reference characters mentioned in the above detailed description is shown in figure 44.

The above is only one example of reference characters not depicted in the drawings. The applicant is requested to review and correct all sheets of drawings as appropriate.

6. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered

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and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specifications***

7. The specification of the instant application is objected to in view of the objections made above to the drawings. The specification must correctly and sufficiently reference every element shown on the drawing figures. Wherever there is a discrepancy between an element depicted in the drawings and references made to the element in the specification (or lack thereof), either the figures of drawings, or the specifications, or both must be corrected to overcome the discrepancy. Appropriate corrections to the specifications are required.

### ***Claim Rejections - 35 USC § 112***

8. The following is a quotation of the **second paragraph** of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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9. Claims 15, 19-26 and 29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 15 recites the limitation of:

**A hand-in-use discriminating section for judging whether a user's hand being used is the right hand or the left hand by detecting the number of fingers touching on each of the right and left sides of said housing;**

**wherein said hand-in-use discriminating section judges the user's hand is the right hand when four fingers are detected on the left side of said housing and one finger is detected on the right side of said housing as facing said displaying section, and judges the user's hand is the left hand when one finger is detected on the left side of said housing and four fingers are detected on the right side of said housing as facing said displaying section.**

The above limitation is considered indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention, because the "judgment" made based on sensing the number of fingers on each side of the housing sensor will not always result in accurately identifying the hand being used by the user to hold the user terminal.

There are various ways a user can hold the user terminal in which less than four fingers can be detected at either side of the sensor. The user can simply place the terminal in the palm of his/her hand (resulting in detection of no fingers on either side of the sensor), or can hold the terminal using less than all five fingers (e.g., the user

holding the terminal using only two fingers such as the thumb and any one of the other four fingers), resulting in only one finger being detected on each side of the sensor. In either case mentioned above, the hand-in-use discriminating section will not be able to accurately determine which hand the user is holding the terminal with.

The Applicant may overcome this rejection by, for example, amending the claim to recite a mechanism for the user terminal to prompt the user to hold the terminal correctly, requiring the user to use all five fingers to hold the terminal; or in another example, by amending the claim in such a way to result in a precise and accurate way of identifying the user's hand; or in yet another example, by amending the claim to introduce a default value for judgment of the hand-in-use, in cases that the correct number of the fingers cannot be detected (e.g., if the sensor cannot for some reason correctly identify the hand being used, the terminal defaults to the assumption that the right hand [or left] is being used.)

All above examples provided by the Examiner are meant as suggestions only. Any amendments made to the claim by the Applicant to overcome this rejection *must be fully supported by the originally filed specification of the instant application, to prevent introduction of New Matter.*

The above referenced limitation of claim 15 is further considered indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention, because the claim recites no indication of a relationship between the identification of the hand being used to hold the user terminal, and the detecting, transmitting, receiving, or displaying steps recited in the claim.



The referenced limitation of claim 15 appears to be separate from and irrelevant to the overall functionality of claim 15. The examiner cannot clearly determine the required functionality of this claim due to the lack of association between the detection of the user's hand and the processes/steps involved in producing and displaying the claimed results.

The applicant may overcome this rejection by amending the claim to associate the result of the "hand detection" with at least one of the detecting, transmitting, receiving, or displaying steps recited in the claim, *provided that there is adequate support for said relation/amendments in the originally filed specification of the instant application.*

Claims 19 and 20 (and their dependent claims 21-26 and 29) recite the limitation, "said user terminal" several times within the claims (in claim 19, lines 2-3, 10, 12, and 19; in claim 20, lines 3, 8, 10, and 17; in claim 21, line 3; in claim 24, lines 3; and in claim 26, lines 3 and 5.) There is insufficient antecedent basis for these limitations in the claims.

This rejection can be overcome by amending claims 19 and 20 to replace the recitation of "a terminal" with --a user terminal--, in line 2 of each claim.

### ***Claim Rejections - 35 USC § 101***

10. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

11. Claim 30 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claim 30 recites “a generating step” in which bubble data is generated in a server connected to the network. However, the produced result (the generated bubble data) is not considered tangible because the resulting bubble data is not stored anywhere in memory, nor is it provided (communicated/outputted) to a user (e.g., displayed, printed, etc.)

The Applicant can overcome this rejection by amending claim 30 to recite a providing step, which would display or output the results to a user (or in a user terminal), *as supported by the original specifications* (e.g., a providing or displaying step similar to the limitations recited in the allowed independent claims.)

***Allowable Subject Matter***

12. Claims 1-9, 11, 16-18, and 31-32 are allowed over the prior art made of record.

13. The following is a statement of reasons for allowance:

The prior art made of record do(es) not disclose, teach, or suggest all the claimed limitations (in combination with all other features in the claim):

The cited prior art does not explicitly teach or suggest spatial information which specifies a spatial range in a space and includes a latitude of an object, a longitude thereof, and a bubble diameter thereof in the space. The prior art made of record also does not explicitly teach or suggest a pair of the latitude and longitude being the center point of the spatial range and the diameter of the bubble being the radius of the spatial range, as recited in independent claims 1-3, 5, 11, and 16-17.

Claims 6-8 and 31-32 are allowed over the prior art made of record as dependents of allowed independent claim 1.

Claim 9 is allowed over the prior art made of record as dependent of allowed independent claim 2.

Claim 4 is allowed over the prior art made of record as dependent of allowed independent claim 3.

Claim 18 is allowed over the prior art made of record as dependent of allowed independent claim 17.

14. Independent claim 15 contains subject matter which is presently rejected under the second paragraph of 35 U.S.C. 112. However, said subject matter would be considered for allowance over the prior art made of record, provided that the present rejection(s) under 35 U.S.C. 112 is/are overcome by the Applicant. (See note below.)

15. Independent claims 19 and 20 (and their dependent claims, 21-26 and 29), while presently rejected under the second paragraph of 35 U.S.C. 112, contain allowable subject matter similar to those identified in the allowed claims, and would be considered for allowance over the prior art made of record, provided that present rejection(s) under 35 U.S.C. 112 is/are overcome by the Applicant. (See note below.)
16. Independent claim 30, while presently rejected under 35 U.S.C. 101 for containing non-statutory subject matter, contains allowable subject matter similar to those identified in the allowed claims, and would be considered for allowance over the prior art made of record, provided that present rejection under 35 U.S.C. 101 is overcome by the Applicant. (See note below.)

NOTE:

As indicated by the Examiner, independent claims 15, 19, 20, and 30 of the instant Application contain subject matter, which is not taught or suggested by the cited prior art made of record.

However, since at the present time the above claims remain rejected under the second paragraph of 35 U.S.C. 112 and/or under 35 U.S.C. 101, the Examiner is deferring any decision for indication of allowability of the instant Application until after all rejections provided in this Office Action are fully overcome by the Applicant.

Any amendments made to the claims to overcome the above rejections must be fully supported by the originally filed specification of the instant Application (ensuring enablement and avoiding introduction of “new matter”), and must not result in broadening the scope of the claims and/or the invention as a whole.

Introduction of any of “new matter” or “enablement” issues, or any broadening of the scope of the claimed invention will result in a new search and would require further consideration, including possible new grounds for rejection over the prior art (to be) identified as the result of the required search.

### ***Response to Arguments***

17. Applicant's arguments filed on 14-June-2006 with respect to the limitations of the newly amended claims, and previously rejected claims in view of the cited references have been fully considered but they are moot in view of the new grounds for rejection, or in view of indication of allowability (were applicable) for the claims.

### ***Conclusion***

18. Any inquiries concerning this communication or earlier communications from the examiner should be directed to Tony Mahmoudi whose telephone number is (571) 272-4078. The examiner can normally be reached on Mondays-Fridays from 08:00 am to 04:30 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Gaffin, can be reached at (571) 272-4146.

A handwritten signature in black ink, appearing to read 'Tony Mahmoudi', is positioned above a horizontal line.

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